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92-257

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January 12, 1993

RECEIVED

JAN 13 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Waiver Requests
Post Office Box 358300
Pittsburgh, Pennsylvania 15251-5300
Attention: Marcus Stevens, Chief
Special Services Branch

Re: Maritime Mobile Radio Service; Waterway Communications
System, Inc.; Request for WAIVER of Coast Station
Operator Requirements

Dear Mr. Stevens:

On behalf of Waterway Communications System, Inc., we respectfully request WAIVER of the requirement imposed by Section 80.153(a) of the Commission's regulations that a licensed commercial radio operator, holding a Marine Radio Operator Permit (or a Third Class Radiotelegraph Operator's Certificate or a General Radiotelephone Operator License), be on duty at the control point of the station to perform station operation at all times the station is open for service.^{1/} This request is made with regard to WATERCOM's Station WFN, which operates in the simplex mode on frequencies in the 2-16 MHz band.

By this request, WATERCOM respectfully seeks authority to operate Station WFN utilizing unlicensed radio operators at the control point of the station. Said operation will consist of keying the transmitter, connecting calls between the radio circuit and the public switched telephone network at the switchboard location and, as appropriate, remotely turning the transmitter on and off. Any adjustments made to the transmitter which may affect the proper operation of the station, from the standpoint of affecting the power of the transmitter or the nature of the signal emitted, will be made only by a licensed

^{1/} FCC Form 155 and our check in the amount of \$105.00 in payment of the requisite application filing fee are associated herewith.

operator. A technician with the proper operator licensee qualifications will be on duty during normal business hours or on call and available for emergency maintenance at all other times.

WATERCOM operates Station WFN on an around-the-clock basis, 365 days per year. The operator's duties consist of controlling the transmit and receive functions of the radio equipment, receiving called party and billing information, connecting the call between the radio circuit and the public telephone network and receipt of message information for subsequent forwarding to the addressee. The transmitters utilized have pre-set frequencies, and are remotely controlled by the operator from an office setting some 13 miles from the transmitter building itself. WATERCOM seeks this waiver in order to facilitate staffing of the evening, "graveyard," and weekend shift positions by part-time employees who, while not technically knowledgeable, are fully qualified to perform the duties attendant to operation of the station as described above. The operators at all times will have access to qualified technicians, on an on-call/as needed basis to perform any technical adjustments or maintenance which may be required of the equipment.

Station operation without licensed operators as requested herein is widely permitted by the Commission's Rules. The Rules permit both maritime and land mobile communications facilities to be operated by individuals who do not hold operator licenses, unattended station operation, and even installation of equipment by unlicensed individuals, all under analogous circumstances wherein the adjustment mechanisms attendant to proper operation of the equipment are internal to the transmitter and so are beyond control from an operator perspective. For example, no operator authorization is required to operate coast stations with a power of 250 watts or less on frequencies above 30 MHz. 47 C.F.R. § 80.153(b); to operate a ship radar if the frequency is non-tunable and the device is capable of being operated exclusively by external controls, § 80.177(a)(3); for installation of a ship VHF transmitter, § 80.177(b); for installation of a ship radar, § 80.177(d); and for operation of narrow-band direct-printing frequencies operating in the MF and HF bands, § 80.179(b). The international Radio Regulations, while specifying in great detail the qualifications of personnel to operate ship stations, requires only that "the staff on duty in coast stations and in coast earth stations are adequately qualified to operate the stations efficiently." Rad. Reg. 3979 (1990 Ed.).

WATERCOM respectfully submits that the licensed operator requirement for the operation of its Station WFN constitutes an

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unnecessary and unreasonable burden.^{2/} The Commission has recognized the precarious financial condition of the public coast station industry in the United States. Maritime Communications (PR Docket No. 92-257, NPRM and NOI released Nov. 30, 1992) at § 9-10. Indeed, the Commission has rescinded rules that permitted only licensed commercial radio operators to perform transmitter maintenance, adjustments and servicing in the Public Mobile and Private Land Mobile, Private Operational-Fixed Microwave and Personal Radio Services, on the rationale that station licensees ultimately should be responsible for ensuring the qualifications and training of their personnel. See Public Mobile Radio Service, 95 F.C.C.2d 769 (1983); Radio Operator Requirements, 96 F.C.C.2d 1123 (1984).^{3/}

Waterway Communications System, Inc. respectfully submits that grant of the waiver requested herein will not adversely impact upon the operation of its facility, nor upon the public

^{2/} Indeed, even where a license is appropriate to ensure technical qualifications, e.g., for individuals having maintenance responsibility, the Commission offers operator examinations only twice each year at 25 local FCC offices. The infrequency of these examinations impedes personnel hiring and management practices. While WATERCOM notes that the Commission has proposed to "privatize" the examination of applicants for commercial radio licenses, FO Docket No. 92-206, 7 FCC Rcd 5890 (1992), the record only recently has been closed in that rulemaking and the ultimate decision and even the practical effects of adoption of the proposal are yet to be determined.

^{3/} See, Radio Operator Requirements for a general discussion of the Commission's repeal of radio operator licensing requirements, 96 F.C.C.2d at 1124-1125.


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interest, convenience and necessity.^{4/} Rather, the public interest in the continued operation of Station WFN mandates that WATERCOM be permitted to operate the station as efficiently as practicable. WATERCOM therefore respectfully requests that the Commission grant this WAIVER.

Any questions or further information regarding the foregoing should be addressed to the undersigned.

Respectfully submitted,



Martin W. Bercovici
Vice President, Legal
Waterway Communications
System, Inc.

cc: Robert H. McNamara
Donna R. Searcy, Secretary, FCC
(5 copies, PR Docket No. 92-257)

^{4/} A copy of this request is being submitted to the Commission's Secretary for inclusion in the PR Docket No. 92-257 inquiry into the maritime regulations, with the recommendation that the operator licensing requirement be modified in accordance with the foregoing. Pending consideration of the broader aspects of this issue in that proceeding, WATERCOM submits that this waiver request is both timely and appropriate.

FEE PROCESSING FORM

FOR
FCC
USE
ONLY

Please read instructions on back of this form before completing it. Section I MUST be completed. If you are applying for concurrent actions which require you to list more than one Fee Type Code, you must also complete Section II. This form must accompany all payments. Only one Fee Processing Form may be submitted per application or filing. Please type or print legibly. All required blocks must be completed or application/filing will be returned without action.

SECTION I

APPLICANT NAME (Last, first, middle initial)

BERCOVICI, MARTIN W.

MAILING ADDRESS (Line 1) (Maximum 35 characters - refer to Instruction (2) on reverse of form)

WATERWAY COMMUNICATIONS SYSTEM, INC.

MAILING ADDRESS (Line 2) (If required) (Maximum 35 characters)

453 EAST PARK PLACE

CITY

JEFFERSONVILLE

STATE OR COUNTRY (If foreign address)

INDIANA

ZIP CODE

47130

CALL SIGN

OTHER FCC IDENTIFIER

Enter in Column (A) the correct Fee Type Code for the service you are applying for. Fee Type Codes may be found in FCC Fee Filing Guides. Enter in Column (B) the Fee Multiple, if applicable. Enter in Column (C) the result obtained from multiplying the value of the Fee Type Code in Column (A) by the number entered in Column (B), if any.

| (A) | (B) | (C) | | | | | | | | |
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| P | D | W | | | | | | | | |
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SECTION II — To be used only when you are requesting concurrent actions which result in a requirement to list more than one Fee Type Code.

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| ADD ALL AMOUNTS SHOWN IN COLUMN C, LINES (1) THROUGH (5), AND ENTER THE TOTAL HERE. THIS AMOUNT SHOULD EQUAL YOUR ENCLOSED REMITTANCE. | | | | | | | | | | |
| | | | <table><tr><td>TOTAL AMOUNT REMITTED WITH THIS APPLICATION OR FILING</td></tr><tr><td>\$ 105.00</td></tr></table> | TOTAL AMOUNT REMITTED WITH THIS APPLICATION OR FILING | \$ 105.00 | <table><tr><td>FOR FCC USE ONLY</td></tr><tr><td></td></tr></table> | FOR FCC USE ONLY | | | |
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INSTRUCTIONS FOR COMPLETING FEE PROCESSING FORM, FCC FORM 155, August 1991

- (1) **"Applicant Name"** - Enter the name (last, first, middle initial) of the applicant as it appears on the original application or filing being submitted with this Fee Processing Form. If company, enter name which is used commercially.
- (2) **"Mailing Address (Line 1)"** - Enter the street address or post office box number to which the applicant wishes correspondence sent.
- (3) **"Mailing Address (Line 2)"** - This line may be used for further identification of the address if additional space is required.
- (4) **"City"** - Enter the name of the city associated with the given street address.
- (5) **"State or Country"** - Enter the appropriate two-digit state abbreviation as prescribed by the U.S. Postal Service. If address is foreign, enter the appropriate country name here.
- (6) **"ZIP Code"** - Enter the appropriate five or nine-digit ZIP Code prescribed by the U.S. Postal Service.
- (7) **"Call Sign or Other FCC Identifier"** - Enter the applicable call or unique FCC identifier, if any, as shown on your attached application or filing. If applying for a service affecting more than one call sign, enter one call sign only.
- (8) **Column (A), "Fee Type Code"** - Enter correct Fee Type Code(s) from the appropriate Fee Filing Guide. Only one Fee Processing Form may be submitted per application or filing. Inaccurate or erroneous Fee Type Codes may result in your application or filing being returned to you without further processing.
- (9) **Column (B), "Fee Multiple"** - Certain applications and filings may request action with respect to more than one station, license, frequency, or party and can be submitted together with one check if they meet specific conditions. This column is used only if a multiple, i.e., two or more, is being applied for. Examples of when this would be used are renewing more than one call sign, frequency, station, or the transfer of control of more than one station. Refer to the appropriate Fee Filing Guide for additional information.
- (10) **Column (C), "Fee Due for Fee Type Code in Column (A)"** - Enter in this block the amount of the fee associated with the Fee Type Code shown in Column (A) (times (X) the fee multiple, if required).
- (11) **"Total Amount Remitted With This Application or Filing"** - Enter the total of lines (1) through (5) of Column (C). This amount should equal the amount of your check or money order. We will not accept multiple checks.

HOW TO SUBMIT APPLICATIONS AND FILINGS

- o Each application or filing should be assembled with the Fee Processing Form, FCC Form 155, stapled to the top of the application with the check placed on top of the Fee Processing Form. **DO NOT STAPLE THE CHECK TO THE APPLICATION OR FEE PROCESSING FORM, FCC FORM 155.** Required copies of applications should be clearly identified as "duplicate copy" and placed behind the original package. **"Stamp and receipt" copies should be placed on top of the original package and CLEARLY identified as return copies.** Extraneous material and extra copies should be avoided at all times. Failure to follow these instructions will delay the processing of your submission.
- o Completed applications or filings should be mailed to the proper address shown in the Fee Filing Guide for the particular service for which you are applying or making a filing. **All applications and filings must be properly addressed to the appropriate P.O. box number,** even if hand delivered to the address listed below. Applications received before midnight on a normal business day will receive that day's date as the receipt date. Deliveries made after midnight on Fridays will not be "officially" receipted until the next Monday. Applications received on weekends and government holidays are dated the next regular business day.
- o A single check, bank draft or money order made payable to the Federal Communications Commission and denominated in U.S. dollars and drawn upon a U.S. financial institution must be included with each application or filing requiring a fee. No postdated, altered or third-party checks will be accepted. Do not send cash.
- o Parties hand delivering applications or filings may receive dated receipt copies by presenting copies of the applications or filings to the acceptance clerk at the time of delivery. **Receipts will be provided for mail-in applications or filings if an extra copy of the application or filing is provided along with a self-addressed stamped envelope. Only one piece of paper per application or filing will be stamped for receipt purposes.**

REMEMBER

- o A separate completed Fee Processing Form is required with each application or filing except in certain circumstances. Please refer to the appropriate Fee Filing Guide for additional information.
- o A wrong Fee Type Code or incorrect remittance may result in your application or filing being returned without processing, or result in the dismissal of your application or filing. Please ensure that FEE TYPE CODES are correct and that your check or money order equals the amount shown in the TOTAL AMOUNT REMITTED WITH THIS APPLICATION OR FILING block before submitting your application or filing.
- o If you have any questions completing this form, please call the Fees Hotline, 202/632-FEES.

FCC NOTICE FOR INDIVIDUALS REQUIRED BY THE PRIVACY ACT AND THE PAPERWORK REDUCTION ACT

Part 1, Subpart G of the Commission's rules authorize the FCC to request the information on this form. The information requested is required in order to obtain a license or authorization from the Commission. The purpose of the information is to provide a means to link a fee payment to a specific invoice, application or filing. The information will be used by the Commission to maintain data concerning fees paid to the Commission, for internal financial control, audit, and reporting purposes. Information requested on this form will be available to the public. Your response is required to obtain a license or other authorization from the Commission.

Public reporting burden for this collection of information is estimated to average 10 minutes per response, including the time for reviewing instructions, searching data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Federal Communications Commission, Office of Managing Director, Washington, DC 20554, and to the Office of Management and Budget, Paperwork Reduction Project (3060-0440), Washington, DC 20503.

THIS ADDRESS IS FOR HAND CARRY OR COURIER DELIVERY ONLY:

Federal Communications Commission
c/o Mellon Bank
Three Mellon Bank Center
525 William Penn Way
27th Floor, Room 153-2713
Pittsburgh, Pennsylvania 15259-0001
(Attention: Wholesale Lockbox Shift Supervisor)

KELLER & HECKMAN
WASHINGTON CENTER
1001 G STREET, NW., SUITE 500 WEST
WASHINGTON, DC 20001

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WASHINGTON, DC 20005

Patricia K. Sullivan

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